

ORDINANCE
CITY OF NEW ORLEANS

CITY HALL: June 6, 2019

CALENDAR NO. 32,691

NO. _____ MAYOR COUNCIL SERIES

BY: COUNCILMEMBERS GISLESON ^{VHP} PALMER, MORENO AND BANKS

AN ORDINANCE to amend and reordain Article XI of Chapter 26 of the Code of the City of New Orleans, relative to Short-Term Rentals, to establish application procedures, permit types and fees, operating regulations, enforcement parameters, and penalties; and to provide otherwise with respect thereto.

SECTION 1. THE COUNCIL OF THE CITY OF NEW ORLEANS HEREBY
ORDAINS, That Article XI of Chapter 26 of the Code of the City of New Orleans, be, and the same is hereby amended and reordained to read as follows:

“CHAPTER 26 – BUILDINGS, BUILDING REGULATIONS, AND HOUSING
STANDARDS

ARTICLE XI – STANDARDS FOR SHORT TERM RENTALS

DIVISION 1 – IN GENERAL

Sec. 26-613. – Purpose

10 A) This Article sets forth comprehensive standards governing the short-term rental of
11 immovable property for lodging or sleeping purposes, and establishes requirements and
12 enforcement mechanisms intended to encompass and regulate all persons engaged in the
13 business of short-term rentals, including without limitation, property owners, property
14 managers, leasing agents, and electronic platforms that facilitate Short-Term Rentals.

15 B) This Article is adopted pursuant to the City's police power to preserve the City's permanent
16 housing stock, balance the economic opportunity created by short-term rentals with the
17 need to maintain a supply of long-term rental housing stock available at a range of prices,
18 reduce any indirect negative effects on the availability of affordable housing that results
19 from the dedication of long term housing stock to Short-Term Rental use, create a level
20 playing field for all parties engaged in the business of providing lodging, ensure the
21 sufficient collection of tax revenue, mitigate the disruptive effects that unmonitored short-
22 term rentals can have on neighborhoods, and protect the livability and quality of life of the
23 City's residential neighborhoods.

24 **Sec. 26-614. – Definitions**

25 Except as otherwise expressly provided in this Article, the following terms and their variant forms
26 shall mean the following:

27 "*Booking Transaction*" means any contractual agreement between a Guest and an Owner relative
28 to a Short-Term Rental.

29 "*Department*" means the Department of Safety and Permits.

30 "*Dwelling Unit*" means a room, or group of rooms, providing complete, independent living
31 facilities, including permanent provisions for living, sleeping, eating, cooking and sanitation for
32 one or more persons.

33 “*Guest*” means any person who occupies a Dwelling Unit pursuant to a Short-Term Rental.

34 “*Operator*” means a natural person possessing a Short-Term Rental Operator’s Permit. An
35 Operator who meets the legal requirements may also possess a Short-Term Rental Owner Permit.

36 “*Owner*” means a person who owns a 50% interest in a Dwelling Unit used for Short-Term
37 Rentals.

38 “*Platform*” means a website, portal, listing service, or any other method through which a person,
39 other than an Owner, collects or receives a fee, directly or indirectly, for facilitating Booking
40 Transactions. A Platform shall not include a service that merely posts advertisements for Short-
41 Term Rentals.

42 “*Primary Residence*” means the Owner’s bona fide principal home, as indicated by the possession
43 of a valid homestead exemption authorized by the Orleans Parish Assessor’s Office.

44 “*Short-Term Rental*” means the use and enjoyment of a Dwelling Unit, or any portion thereof, by
45 guests for a period of less than thirty consecutive days, in exchange for money, commodities, fruits,
46 services, or other performances. Hotels, motels, bed and breakfasts, and other land uses explicitly
47 defined and regulated in the CZO separately from Short-Term Rentals are not considered to be
48 Short-Term Rentals.

49 **Sec. 26-615. – Short-Term Rental Permits Required**

50 A) No Dwelling Unit in Orleans Parish shall be used as a Short-Term Rental unless:

- 51 1) the Owner of the Dwelling Unit possesses a valid and current Short-Term Rental
52 Owner Permit issued for the Dwelling Unit in accordance with Division 2 of this
53 Article, and fully complies with all legal requirements and duties imposed herein
54 with respect to each and every Short-Term Rental; and

2) the Owner has designated an Operator possessing a valid Short-Term Rental Operators Permit, issued in accordance with Division 3 of this Article, and such Operator fully complies with all legal requirements and duties imposed herein with respect to each and every Short-Term Rental.

B) No Platform shall facilitate or conduct any Booking Transaction for a Short-Term Rental in Orleans Parish without first obtaining and maintaining a Short-Term Rental Platform Permit issued in accordance with Division 4 of this Article.

C) The permits required by this Article are regulated privileges, not rights, and can be revoked or suspended by the City in accordance with the provisions provided herein.

D) Any permit issued pursuant to this Article is non-transferable.

E) Any change in ownership requires a new Short-Term Rental Owner Permit.

F) If any required contact information changes for any permit, the person possessing the permit shall immediately notify the Department in writing, and the Department shall issue a revised Permit to reflect the updated contact information.

Sec 26-616. – Short-Term Rental Permit Fees

A) There shall be the following Short-Term Rental Owner Permit classifications, which shall correspond to the types of Short-Term Rental uses set forth by the Comprehensive Zoning Ordinance:

- 1) Short-Term Rental Partial-Unit Residential
- 2) Short-Term Rental Small Residential
- 3) Short-Term Rental Large Residential
- 4) Short-Term Rental Commercial

B) The annual permit fees, and renewals thereof, shall be due upon application filing and shall be as follows:

1) Short-Term Rental Owner Permit (per Dwelling Unit used as a Short-Term Rental):

a. Type R – Residential

i. Partial-Unit – \$250.00

ii. Small Residential – \$500.00

iii. Large Residential – \$500.00

b. Type C – Commercial - \$5,000.00

2) Short-Term Rental Operator Permit

a. If the Owner is the Operator of the Type-R - Residential Short-Term Rental:

\$0.00

b. If the Operator is a natural person other than the Owner, for Type-R Residential Short-Term Rental(s):

i. 1 Short-Term Rental – \$150.00;

ii. 2+ Short-Term Rentals - \$1,000.00

c. Type-C, Commercial Short-Term Rentals - \$1,000.00.

3) Short-Term Rental Platform Permit – \$50,000.00

C) The Owner shall remit to the City a \$5.00 fee for each night of occupancy of a Dwelling Unit used as a Short-Term Rental for Type-R – Residential, and a \$10.00 fee for each night for Type-C – Commercial Short Term Rentals, permitting enforcement and other costs borne by the City. Fees shall be due and remitted along with tax submissions.

DIVISION 2 – SHORT-TERM RENTAL OWNER PERMIT

Sec. 26-617 – Permit and Application – Eligibility

100 A) No Dwelling Unit may be used as a Short-Term Rental unit unless the Owner possesses a Short-
101 Term Rental Owner Permit in accordance with this Article.

102 1) A Short-Term Rental Owner Permit shall be valid for one year from the date of
103 issuance, and shall be reapplied for and renewed annually.

104 2) A separate Short-Term Rental Owner Permit shall be required for each Dwelling Unit
105 used as a Short-Term Rental.

106 3) A Short-Term Rental Owner Permit shall be consistent with the dwelling-unit-per-lot-
107 of-record, Guest bedroom, Guest occupancy, and any other applicable density
108 limitations set forth in the Comprehensive Zoning Ordinance.

109 B) The application for a Short-Term Rental Owner Permit shall be on forms created by the
110 Department, which shall, at a minimum, require the following information from applicants:

111 1) The name, address, phone number, and email contact information of the Owner.

112 2) The municipal address of the Dwelling Unit associated with the Short-Term Rental Owner
113 Permit.

114 3) The total number of Dwelling Units located on the lot-of-record containing the Dwelling
115 Unit associated with the Short-Term Rental Owner Permit application.

116 4) The name, address, phone number, email contact information, and permit number of the
117 Operator designated by the Owner to satisfy the requirements of this Article with respect
118 to the Dwelling Unit associated with the Short-Term Rental Owner Permit. If the
119 designated Operator has not yet received a permit number, the applicant shall provide
120 evidence of a contemporaneous application for a Short-Term Rental Operator's Permit by
121 the designated Operator.

122 C) The following additional documentation shall be submitted to the Department, along with the
123 application, prior to processing:

- 124 1) Proof of insurance that meets the requirements of Sec. 26-618(A)(1).
- 125 2) A list of Platforms that will be used to solicit Booking Transactions for the Dwelling
126 Unit associated with the Short-Term Rental Owner Permit, and correlating print-outs
127 or URL links soliciting the Short-Term Rental, if any.
- 128 3) A tax clearance form obtained from the Department of Finance for the Dwelling Unit
129 associated with the application.
- 130 4) A floor plan depicting all:
- 131 i. entrance and exit doors,
 - 132 ii. windows,
 - 133 iii. Guest bedrooms and bedrooms,
 - 134 iv. bathrooms,
 - 135 v. kitchens, and
 - 136 vi. interior doors.
- 137 5) An evacuation plan indicating:
- 138 i. the fire exits and escape routes;
 - 139 ii. the location of smoke detectors;
 - 140 iii. the location of fire extinguishers; and
 - 141 iv. the location of carbon monoxide detectors.

142 6) A site plan indicating the location of any required parking.

143 7) If the application is for a Residential Permit:

- 144 i. A notarized affidavit that the Owner's Primary Residence is located on
- 145 the same lot of record as the Dwelling Unit associated with the Short-
- 146 Term Rental Owner Permit; and
- 147 ii. A copy of the Owner's homestead exemption reflecting same.

148 8) If the application is for a Commercial Permit:

- 149 i. A Noise Abatement Plan;
- 150 ii. A Security and Operation Plan; and
- 151 iii. A Sanitation Plan.

152 9) An attestation signed by the Owner providing that:

- 153 i. the Dwelling Unit has no outstanding property taxes or City liens
- 154 associated with the lot-of-record, nor does the owner owe any other
- 155 outstanding taxes to the City;
- 156 ii. the Dwelling Unit complies, and will comply during any Short-Term
- 157 Rental of the Dwelling Unit, with all standards contained in the City's
- 158 Minimum Property Maintenance Code and all health safety requirements
- 159 contained in the Building Code;
- 160 iii. the Dwelling Unit has working smoke detectors inside and outside every
- 161 bedroom, carbon monoxide alarms outside every bedroom, and a properly
- 162 maintained and charged fire extinguisher on all habitable floors;
- 163 iv. the Dwelling Unit is not subject to any contractual restrictions precluding
- 164 the Dwelling Unit from being used for Short-Term Rentals, including but
- 165 not limited to: homeowner association agreements, condominium bylaws,
- 166 restrictive covenants, or building restrictions; and
- 167 v. the Owner has read, understands, and agrees to comply with all legal
- 168 duties imposed by this Article and the Comprehensive Zoning
- 169 Ordinance.

170 D) Every Short-Term Rental Owner Permit issued by the Department shall contain the following
171 information:

- 1) Short-Term Rental Owner Permit number,
- 2) Municipal address of the Dwelling Unit associated with the permit;
- 3) Owner's name and contact information;
- 4) Operator's name and contact information;
- 5) Permit type, including the Residential sub-type, if applicable;
- 6) The permit's effective and expiration dates; and
- 7) The Guest bedroom and occupancy limit of the Dwelling Unit associated with the permit.

E) Renewals shall be obtained in the same or substantially similar form and manner as the initial permit, and shall also require:

- i. A revised and current sales tax clearance form from the Department of Finance;
- ii. Updated contact information, if applicable;
- iii. An attestation signed by the Owner providing that, in addition to the items specified in (C)(9), the Short-Term Rental Owner Permit has not been revoked in the previous year;
- iv. An updated list of Platforms that are used to solicit Books Transactions for the Dwelling Unit associated with the Short-Term Rental Owner Permit, and correlating print-outs of the Universal Resource Locator (URL) soliciting the Short-Term Rental (for example: <http://www.vrbo.com/XXXXXX> or <https://www.airbnb.com/rooms/xxxxxx>); and
- v. If a Type C – Commercial Short-Term Rental, proof of a favorable, annual City fire inspection.

Sec. 26-618 - Legal Duties of a Short-Term Rental Owner Permit Holders

A. Legal Duties. An Owner possessing a Short-Term Rental Owner Permit shall comply at all times with the following requirements:

- 199 1) **Insurance.** The Owner shall maintain in full force and effect at all times a Short-Term
200 Rental insurance policy, vacation rental insurance, or equivalent insurance, with limits of
201 not less than \$1,000,000.00 per occurrence, combined single limit, for bodily injury,
202 personal injury, and property damage arising in any way from the issuance of the permit
203 or activities conducted pursuant to the permit. Each policy of insurance shall be issued
204 by an insurer authorized to insure in the State of Louisiana and name the City of New
205 Orleans as additional insured on a primary, noncontributory basis for any liability arising
206 directly or indirectly from the issuance of the permit.
- 207 2) **Guest Records.** The Owner shall maintain Guest registration records that contain the
208 name and address of each Guest, as well as the actual dates of occupancy and total number
209 of Guests per party, per stay. Such records shall be maintained for three years and shall
210 be provided to the Department upon request. Personally identifiable information may be
211 redacted.
- 212 3) **Short-Term Rental Advertisements.** The Owner shall ensure that the following
213 information be provided in connection with any Short-Term Rental advertisement:
- 214 a. the Short-Term Rental Owner Permit number;
 - 215 b. the Short-Term Rental Operator Permit number of the
216 designated Operator;
 - 217 c. whether the Dwelling Unit is wheelchair accessible or
218 otherwise compliant with the Americans with Disabilities
219 Act;
 - 220 d. the number of available Guest bedrooms as indicated on the
221 Owner Permit; and
 - 222 e. the maximum available occupancy of the Dwelling Unit as
223 indicated on the Owner Permit.
- 224 4) **Adherence to Dwelling and Occupancy Limits.** Short-Term Rentals shall be subject to,
225 and may not exceed, the dwelling-unit-per-lot-of-record, Guest bedroom, Guest
226 occupancy, and density limitations set forth in the Comprehensive Zoning Ordinance.
- 227 5) **Required Postings at the Short-Term Rental.**

- 228 a. The Owner shall ensure that a copy of the Owner permit is
229 displayed in a location clearly visible and legible to both
230 Guests and neighbors.
- 231 b. The Owner shall ensure that the following are displayed in a
232 location clearly visible and legible to Guests:
- 233 i. An evacuation diagram identifying fire escapes and
234 all means of egress from the Dwelling Unit and the
235 building in which the Dwelling Unit is located; and
236 ii. Trash disposal and recycling collection days.
- 237 6) **Health and Safety.** The Owner shall ensure that each Dwelling Unit governed by this
238 Article complies with the following standards:
- 239 a) Walls, ceilings, floors, windows, fixtures and furnishings
240 throughout the Dwelling Unit shall be maintained in a clean
241 condition at all times and shall be in good repair.
- 242 b) All rooms shall be adequately lighted and properly ventilated by
243 natural or artificial means or both, and shall be provided with
244 adequate heating and air-conditioning facilities. All natural gas
245 fired heaters shall be vented to the outside atmosphere.
- 246 c) Each Guest shall be furnished with clean towels, washcloths,
247 and bed linens. Sheets must be of sufficient width and length
248 to completely cover the mattress and be turned under the
249 mattress so as to properly secure the sheet. All towels,
250 washcloths and bed linens shall be kept in good repair and
251 changed between rentals.
- 252 d) All dishes, utensils, pots, pans and other cooking utensils shall
253 be provided to Guests in a safe and sanitary condition. The
254 Permittee shall ensure that all perishables left by the Guests are
255 disposed of at the conclusion of a Short-Term Rental.
- 256 e) Each Dwelling Unit shall have a working fire extinguisher,
257 smoke alarms, and carbon monoxide detectors and shall comply
258 with all applicable fire codes;

- 259 f) The Dwelling Unit shall have working locks, operable by
260 Guests, at all points of ingress and egress;
261 g) Every Dwelling Unit shall comply with applicable provisions
262 of the Comprehensive Zoning Ordinance, the Minimum
263 Property Maintenance Code as provided in Chapter 26, Article
264 IV, and the New Orleans Building Code, as provided in Sec.
265 26-14 *et. seq.*

266 7) **Short-Term Rental Guest Use Limitations.** The Owner shall ensure that no Dwelling
267 Unit used as a Short-Term Rental, is used as a reception facility, or any other commercial
268 use defined by the Comprehensive Zoning Ordinance, during Guest use of the Short-Term
269 Rental.

270 8) **Criminal Activity.** The Owner shall timely report any known or suspected criminal
271 activity by a Guest to the New Orleans Police Department.

272 9) **Reasonable Inspections.** The Owner shall submit to inspections authorized by Sec. 26-
273 624.

274 10) **Owner/Operator Availability.**

275 The Owner shall:

- 276 a. Ensure the permitted Operator is available during all periods
277 of Guest occupancy, including nights and weekends, to
278 facilitate compliance with this Article. Availability requires,
279 at a minimum, that the Operator be:

- 280 1. accessible by telephone; and
281 2. able to be physically present at the Short-
282 Term Rental within one hour of being
283 contacted.

284 b. Serve as the point of contact for Guests.

285 c. Receive and timely resolve complaints from neighbors
286 regarding disruptive Short-Term Rentals.

287 11) **Taxes and Fees.** The Owner shall timely remit all applicable local, state, and federal
288 taxes and City fees owed in connection with any Short-Term Rental.

289 12) **Compliance with Other Laws.** The Owner shall ensure that any Short-Term Rental fully
290 complies with this Article, the Comprehensive Zoning Ordinance, and all other applicable
291 laws.

292 B) **Prohibited Acts.** The following acts shall be prohibited and may be grounds for suspension or
293 revocation of a Short-Term Rental Owner Permit, or any other remedy authorized by the
294 Article.

- 295 1) Advertising an illegal Short-Term Rental.
- 296 2) Exceeding in any advertisement, the legally available dwelling-unit-per-lot-of-
297 record limitation set forth in the Comprehensive Zoning Ordinance.
- 298 3) Exceeding in any advertisement, the legally available Guest bedroom limitation set
299 forth in the Comprehensive Zoning Ordinance.
- 300 4) Exceeding in any advertisement, the legally available Guest occupancy limitations
301 set forth in the Comprehensive Zoning Ordinance.
- 302 5) Exceeding the dwelling-unit-per-lot-of-record limitation set forth in the
303 Comprehensive Zoning Ordinance.
- 304 6) Exceeding the Guest bedroom limitation set forth in the Comprehensive Zoning
305 Ordinance.
- 306 7) Exceeding the Guest occupancy limitations set forth in the Comprehensive Zoning
307 Ordinance.
- 308 8) Using a Dwelling Unit as a reception facility, or for any other commercial use
309 defined by the Comprehensive Zoning Ordinance, during a Short-Term Rental. No
310 special event permit shall be obtained for an event occurring at a Dwelling Unit
311 during any period of Guest occupancy.
- 312 9) Rental of the Dwelling Unit by the hour or for any period less than one night.
- 313 10) Rental of a single Dwelling Unit to more than one party of Guests at one time.

- 314 11) Short-Term Rental use that generates excessive loud sound, offensive odors, public
315 drunkenness, unlawful loitering, lewd conduct by Guests or any effect that otherwise
316 unreasonably interferes with neighbors' quiet enjoyment of their properties. For
317 purposes of this paragraph, excessive loud sound means any noise, generated from
318 within the Dwelling Unit or having a nexus to the Dwelling Unit that is louder than
319 a conversational level, or any music that is plainly audible from the property line of
320 the lot containing the Dwelling Unit, between the hours of 10:00 p.m. and 8:00 a.m.
- 321 12) Short-Term Rental use that places loads on structural elements or components of
322 buildings, including, but not limited to, porches, balconies, and roof decks, in excess
323 of the minimum design loads required by the Building Code.
- 324 13) Violations of the submitted Noise Abatement Plan, Security and Operation Plan, or
325 the Sanitation Plan.
- 326 14) Discriminating against any Guest, or potential Guest, because of race, color, sex,
327 gender identity, age, religion, disability, national origin, ancestry, sexual orientation,
328 marital status, parental status, military discharge status or source of income.
- 329 15) Failure to comply with any other legal duty imposed by this Article or correlating
330 provisions in the Comprehensive Zoning Ordinance, and all other applicable laws.

331 C) **Ongoing Duty.** An Owner possessing a Short-Term Rental Owner Permit may delegate the
332 performance of any duties set forth in this Section to the permitted Short-Term Rental Operator
333 identified in the Owner's application to the Department. Notwithstanding that delegation, the
334 Owner remains principally responsible for the performance of all duties created hereunder, and
335 may not assert the non-performance of a Short-Term Rental Operator as a defense to any action
336 arising from a breach of the Owner's duties under this Article.

337 **DIVISION 3 – SHORT-TERM RENTAL OPERATOR PERMIT**

338 **Sec. 26-619 – Short-Term Rental Operator Permit & Application – Eligibility**

- 339 A) Every Dwelling Unit used as a Short-Term Rental in Orleans Parish shall be operated by a
340 natural person holding a Short-Term Rental Operator Permit.
- 341 1) A natural person who holds a Short-Term Rental Owner Permit may act as the
342 Operator, but must separately apply for and obtain a Short-Term Rental Operator
343 Permit.

2) The Short-Term Rental Operator Permit is valid for one year from the date of issuance, and shall be reapplied for and renewed annually.

3) A separate Short-Term Rental Operator Permit shall be required for each Dwelling Unit used as a Short-Term Rental.

B) The application for a Short-Term Rental Operator Permit shall be on forms created by the Department, which shall require, at a minimum, the following information:

1) The name, address, phone number and email contact information of the Operator.

2) The municipal addresses of all Dwelling Units for which the Operator is responsible, together with the name and contact information of the Owner of said units, if different from the Operator.

3) An attestation that the Operator has read, understands, and agrees to comply with all legal duties imposed by this Article, and in the Comprehensive Zoning Ordinance.

4) Proof that the Operator is at least 18 years of age.

5) A Nuisance Prevention and Neighborhood Complaint Response Plan for each Dwelling Unit used as a Short-Term Rental.

C) Renewals shall be obtained in the same or substantially similar form and manner as the initial permit, and shall require:

i. A revised and current sales tax clearance form from the Department of Finance;

ii. An attestation signed by the Operator providing that, in addition to the items specified in subpart (B), that a Short-Term Rental Operator Permit has not been revoked in the previous year; and

iii. Updated contact information, if applicable.

Sec. 26-620 - Legal Duties of Short-Term Rental Operator Permit Holders

A) **Legal Duties.** Any person possessing a Short-Term Rental Operator Permit shall comply at all times with the following requirements:

1) **Operator Availability.** The Operator shall:

a) Be available during all periods of Guest occupancy, including nights and weekends, to facilitate compliance with this Article. Availability requires, as a minimum, that the Operator:

1. be accessible by telephone; and
 2. be able to be physically present at the Dwelling Unit within one hour of being contacted.
- b) Serve as the point of contact for Guests.
 - c) Receive and timely resolve complaints from neighbors regarding disruptive Short-Term Rentals.
- 2) **Guest Records.** The Operator shall be solidarily responsible with the Owner for ensuring full compliance with the Guest record-keeping requirements set forth in Sec. 26-618(A)(2).
- 3) **Short-Term Rental Advertisements.** The Operator shall be solidarily responsible with the Owner for ensuring full compliance with the advertising requirements set forth in Sec. 26-618(A)(3).
- 4) **Adherence to Dwelling and Occupancy Limits.** The Operator shall be solidarily responsible with the Owner for ensuring full compliance with the dwelling-unit-per-lot-of-record, Guest bedroom, Guest occupancy, and density limitations set forth in Sec. 26-618 (A)(4).
- 5) **Required Postings at the Short-Term Rental.** The Operator shall be solidarily responsible with the Owner for ensuring full compliance with the posting requirements set forth in Sec. 26-618(A)(5).
- 6) **Health and Safety.** The Operator shall be solidarily responsible with the Owner for ensuring full compliance with each of the health and safety requirements set forth in Sec. 26-618(A)(6)(a) through (g).
- 7) **Short-Term Rental Guest Use Limitations.** The Operator shall be solidarily responsible with the Owner for ensuring that no Dwelling Unit associated with a Short-Term Rental Owner Permit be used as a reception facility, or any other commercial use as set forth in Sec. 26-618(A)(7).
- 8) **Criminal Activity.** The Operator shall be solidarily responsible with the Owner for reporting any known or suspected criminal activity by a Short-Term Rental Guest to the New Orleans Police Department as set forth in Sec. 26-618(A)(8).

9) **Reasonable Inspections.** The Operator shall be solidarily responsible with the Owner for facilitating inspections required by Sec. 26-618(A)(9).

10) **Compliance with Other Laws.** The Operator shall ensure that any Short-Term Rental fully complies with this Article, the Comprehensive Zoning Ordinance, and all other applicable laws.

B) **Prohibited Acts.** The following acts shall be prohibited and may be grounds for suspension or revocation of a Short-Term Rental Operator Permit, or any other remedy authorized by the Article.

- 1) Advertising an illegal Short-Term Rental.
- 2) Exceeding in any advertisement, the legally available dwelling-unit-per-lot-of-record limitation set forth in the Comprehensive Zoning Ordinance.
- 3) Exceeding in any advertisement, the legally available Guest bedroom limitation set forth in the Comprehensive Zoning Ordinance.
- 4) Exceeding in any advertisement, the legally available Guest occupancy limitations set forth in the Comprehensive Zoning Ordinance.
- 5) Exceeding the dwelling-unit-per-lot-of-record limitation set forth in the Comprehensive Zoning Ordinance.
- 6) Exceeding the Guest bedroom limitation set forth in the Comprehensive Zoning Ordinance.
- 7) Exceeding the Guest occupancy limitations set forth in the Comprehensive Zoning Ordinance.
- 8) No Dwelling Unit associated with a Short-Term Rental Owner Permit may be used as a reception facility, or any other commercial use defined by the Comprehensive Zoning Ordinance. No special event permit shall be obtained for an event occurring at a Dwelling Unit during any period of Guest occupancy.
- 9) Rental of the Dwelling Unit by the hour or for a period less than one night.
- 10) Rental of a single Dwelling Unit to more than one party of Guests at one time.

- 11) Short-Term Rental use that generates excessive loud noise, offensive odors, public drunkenness, unlawful loitering, lewd conduct by Guests or any effect that otherwise unreasonably interferes with neighbors' quiet enjoyment of their properties. For purposes of this paragraph, excessive loud noise means any noise, generated from within the Dwelling Unit or having a nexus to the Dwelling Unit that is louder than a conversational level, or any music that is plainly audible from the property line of the lot containing the Dwelling Unit, between the hours of 10:00 p.m. and 8:00 a.m.
- 12) Short-Term Rental use that places loads on structural elements or components of buildings, including, but not limited to, porches, balconies, and roof decks, in excess of the minimum design loads required by the Building Code.
- 13) Violations of the submitted Noise Abatement Plan, Security and Operation Plan, or the Sanitation Plan.
- 14) Discriminating against any Guest, or potential Guest, because of race, color, sex, gender identity, age, religion, disability, national origin, ancestry, sexual orientation, marital status, parental status, military discharge status or source of income.
- 15) Failure to comply with any other legal duty imposed by this Article, correlating provisions in the Comprehensive Zoning Ordinance, or any other applicable law.

DIVISION 4 – SHORT-TERM RENTAL PLATFORM PERMIT

Sec. 26-621. - Annual Short-Term Rental Platform Permit & Application

- A) Any Platform that receives anything of value for directly or indirectly facilitating or conducting a Booking Transaction for Short-Term Rentals in Orleans Parish shall possess a Short-Term Rental Platform Permit.
- B) The Short-Term Rental Platform Permit is valid for one year from the date of issuance, and shall be reapplied for and renewed annually.
- C) The Short-Term Rental Platform Permit application shall require the following information, at a minimum:
- 1) The applicant's name, trade name, address, and telephone number;
 - 2) Proof that the applicant is in good standing with the Louisiana Secretary of State and authorized to do business within the State of Louisiana;
 - 3) The name, address, phone number and e-mail address of the Platform's local agent authorized for service of process; and

461 4) The name, address, phone number and e-mail address of the Platform's local agent
462 authorized by the applicant to address and remedy any violation of this Article.

463 D) A separate Short-Term Rental Platform Permit shall be required for each individually branded
464 Platform, even if under common ownership or control with other Platforms.

465 **Sec. 26-622. - Legal Duties of Short-Term Rental Platform Permit Holders.**

466 Any person possessing a Short-Term Rental Platform Permit shall comply at all times with the
467 following requirements:

- 468 1) No Platform may conduct or facilitate any Booking Transaction for
469 a Short-Term Rental of a Dwelling Unit in Orleans Parish that is not
470 in compliance with this Article. A Short-Term Rental is not in
471 compliance with this Article if (i) the Owner of the Dwelling Unit
472 does not possess a valid Short-Term Rental Owner Permit for that
473 Dwelling Unit; (ii) the Dwelling Unit is not operated by an Operator
474 with a valid Short-Term Rental Operator Permit, or (iii) use of the
475 Dwelling Unit for Short Term Rentals would contravene the Code
476 of the City of New Orleans, the Comprehensive Zoning Ordinance,
477 or any other municipal, state, or federal law.
- 478 2) Each Platform shall have a duty to obtain commercial general
479 liability insurance, with limits of not less than \$1,000,000 per
480 occurrence, for bodily injury, personal injury (if commercially
481 available) and property damage arising in any way from the issuance
482 of the Short-Term Rental Platform Permit or activities conducted
483 pursuant to that permit. Each policy of insurance shall: (i) be issued
484 by an insurer authorized to insure in the State of Louisiana; (ii) name
485 the City of New Orleans as an additional insured on a primary,
486 noncontributory basis for any liability arising directly or indirectly
487 from the issuance of the permit (if commercially available); (iii) be
488 maintained in full force and effect for the duration of the permit
489 period; and (iv) include a provision requiring 30 calendar days'
490 advance notice to the Department prior to cancellation or lapse of
491 the policy.

- 492 3) Each Platform shall have the duty, if collecting and remitting taxes
493 on behalf of an Owner, to comply with all applicable federal, state
494 and local laws and regulations regarding collection and payment of
495 taxes.

496 **Sec. 26-623. – Platform Safe Harbor**

497 Platforms shall be deemed in compliance with the legal duties set forth in Sec. 26-622 (1) if:

- 498 A) The Platform requires any person who lists a Dwelling Unit located in Orleans Parish for a
499 Short-Term Rental to provide the Short-Term Rental Owner Permit number and the Short-
500 Term Rental Operator Permit number associated with the Dwelling Unit at the time of the
501 listing;
- 502 B) The Platform does not permit the listing of a Dwelling Unit located in Orleans Parish for a
503 Short-Term Rental if the permit information required by Sec. 26-623(A) is omitted or
504 appears blank;
- 505 C) The Platform ensures that the Short-Term Rental Owner Permit number and the Short-Term
506 Rental Operator Permit number identified pursuant to Sec. 26-623(A) are displayed on any
507 listing of a Short-Term Rental so that the City may assess whether the Dwelling Unit
508 possesses the appropriate permits and is otherwise operating in accordance with law; and
- 509 D) The Platform removes any improper listings within seven days of the Department providing
510 written notification of an unpermitted or unauthorized Short-Term Rental.

511 A permitted Platform that avails itself of this safe harbor does not warrant the accuracy of user-
512 submitted permit data, and shall not be legally responsible for any incorrect information submitted
513 by an Owner or Operator.

514 **DIVISION 5– DEPARTMENT OF SAFETY AND PERMIT’S SHORT-TERM RENTAL**
515 **RESPONSIBILITIES AND POWERS**

516 **Sec. 26-624. - Departmental authority.**

- 517 A) **Receive Short-Term Rental applications.** The Department shall receive and process all
518 Short-Term Rental permit applications and determine applicant eligibility.
- 519 B) **Issue Eligible Short-Term Rental permits.** The Department shall issue permits only to
520 eligible applicants, as determined by the Department.
- 521 C) **Inspections.**

- 1) The Director of the Department or a duly authorized representative shall have the power to inspect any Short-Term Rental to determine compliance with this Article.
- 2) Inspection may occur at any reasonable time, upon the production of proper identification by a representative of the Department, whenever the Director of the Department has a reasonable belief that a Dwelling Unit or a Short-Term Rental is in violation of any of the provisions of this Article, the Comprehensive Zoning Ordinance, or the Building Code as provided in City Code Sec. 26-14 *et. seq.*
- 3) Prior to any inspection of an occupied Dwelling Unit, the Department shall present credentials to the Owner, Operator, or Guest and request entry. If the Short-Term Rental is unoccupied, the Department shall attempt to locate the Owner or Operator and request entry. If the Department does not obtain timely consent to enter a Dwelling Unit, it may attempt to secure entry as provided in subpart (4), below.
- 4) Warrant for inspection. If the Owner or Operator of the Short-Term Rental refuses within 72 hours of Department's request, admittance to the Director of the Department or his/her duly authorized representative for the purpose of making an inspection or examination of the premises, the Director or his representative may present an affidavit to any judge of the municipal court stating that he has cause to believe that an inspection of the designated premises will reveal designated violations of this article.
 - a) The affidavit alleging probable cause shall identify the factual basis for the belief that the Short-Term Rental is not in compliance with this Article, or correlating provisions in the Comprehensive Zoning Ordinance.
 - b) Upon receiving the affidavit, the judge may issue a warrant authorizing the Director or his representative to search the premises. The scope of the search authorized by the warrant shall be limited to a search for those designated, alleged violations.

550 5) An Owner may avoid an inspection authorized by Subpart C of this Section by
551 voluntarily forfeiting his or her Short-Term Rental Owner's Permit, in which
552 case the permit shall be deemed revoked. Nothing herein shall limit the authority
553 of a law enforcement body to secure a search warrant in connection with criminal
554 activity at a Dwelling Unit unrelated to compliance with this Article or the
555 authority of the Department to conduct lawful inspections of a Dwelling Unit
556 unrelated to compliance with this Article.

557 D) **Rescission of permits issued in error.** The Department is authorized to cancel a permit
558 issued under this Article whenever a permit so issued is in error, or in contravention of this
559 Article or the Comprehensive Zoning Ordinance.

560 E) **Enforcement.** The Department shall not be responsible for the enforcement of correlating
561 taxation provisions dictated by Chapter 150 of the Code of the City of New Orleans.

562 **Sec. 26-625 – Permit Issuance and Renewal – Departmental Determination**

563 A) The Department shall have discretion to determine whether an applicant for a permit and
564 the Dwelling Unit identified in the application meet the criteria established by law, and
565 whether a permit should be issued.

566 B) If a permit is denied, the Department shall provide written reasons to the applicant upon
567 request. The written reasons shall be sent to the e-mail provided in the application. The
568 applicant can appeal the Department's determination, within 30 days of the transmission,
569 by requesting in writing a hearing with the Department.

570 1) If the denial is due to any conflict with the Comprehensive Zoning
571 Ordinance, the appeal shall directed to and heard by the Board of
572 Zoning Adjustments.

573 2) If the denial is for any reason other than a conflict with the
574 Comprehensive Zoning Ordinance, the appeal shall be docketed by
575 the Department for a hearing before an Administrative Hearing
576 Officer in accordance with the procedures provided in Chapter 6,
577 Article II of the Code of the City of New Orleans.

- C) The issuance or renewal of a permit under this Article shall not be deemed to warrant, on behalf of the City, that the Owner, Operator, or Platform is in compliance with law or that a Dwelling Unit is fit for occupancy. This Article shall not create any right of action against the City by a Guest or any third-party.

DIVISION 6 –ENFORCEMENT

Sec. 26-626. – Violations – Notice and Hearing

- A) Any violation of this Article is prohibited, and shall subject the Owner, Operator, or Platform to penalties as provided in Sec. 26-629.
- B) Notice and hearing requirements for determining violation(s) shall be in accordance with the administrative procedures provided in Chapter 6, Article II of the Code of the City of New Orleans.

Sec. 26-627. – Immediate Suspension Procedures – Owner Permit

- A) If the Department has good cause to believe that the use of a Dwelling Unit as a Short-Term Rental presents an imminent threat to public health, safety, or welfare, the Director of the Department, by issuance of a written order stating the reasons for such belief, may immediately suspend the Short-Term Rental Owner Permit with respect to the unit without a hearing. The Department shall transmit notice of the Director's written order within twenty-four hours of the determination, and shall send said order to the Owner's contact information provided to the Department in the Owner Permit application.
- B) No Dwelling Unit subject to an order of suspension may be used as a Short-Term Rental.
- C) Within 14 days of the written order of suspension, a Short-Term Rental Owner may request a hearing in writing, directed to the Director of the Department. The hearing shall take place within 7 business days of the written request for a hearing. If the Owner fails to timely request a hearing, the Short-Term Rental Owner's Permit shall be deemed revoked.

Sec. 26-628. – General Suspension and Revocation Procedures

- A) A permit issued pursuant to this Article may be suspended for a term or revoked in its entirety for violations of this Article or any other law incorporated herein.
- B) If a permit is revoked, the Permittee may not reapply for a permit for a period of one year from the date of revocation.

- 607 C) The decision to suspend or revoke a permit shall be at the discretion of the hearing
608 officer based on the severity of the violation and any other mitigating or aggravating
609 circumstances surrounding the violation.
- 610 D) Without limiting the situations in which the hearing officer might deem revocation
611 appropriate, revocation shall be mandatory in the following circumstances:
- 612 1) A Short Term Rental Owner Permit shall be revoked if the hearing officer
613 determines by a preponderance of the evidence that:
- 614 i. The Owner violated Sec. 26-618(A)(4).
 - 615 ii. The Owner violated Sec. 26-618(A)(6).
 - 616 iii. The Owner violated Sec. 26-618(B)(8).
 - 617 iv. The Owner violated Sec. 26-618(B)(10).
 - 618 v. Three separate violations of Sec. 26-618(B)(11) have occurred at the
619 Dwelling Unit during a three-month period.
 - 620 vi. The Owner violated Sec. 26-618(B)(14).
 - 621 vii. The Owner made false, misleading or fraudulent statement(s) in the
622 permit application, or misrepresented material facts in the permit
623 application, or used any scheme or subterfuge for the purpose of evading
624 any requirement of this Article.
- 625 2) A Short Term Rental Operator Permit shall be revoked if the hearing officer
626 determines by a preponderance of the evidence that:
- 627 i. The Operator violated Sec. 26-620(A)(4).
 - 628 ii. The Operator violated Sec. 26-620(A)(6).
 - 629 iii. The Operator violated Sec. 26-620(B)(8).
 - 630 iv. The Operator violated Sec. 26-620(B)(10).
 - 631 v. Three separate violations of Sec. 26-618(B)(11) have occurred at the
632 Dwelling Unit during a three-month period.
 - 633 vi. The Operator violated Sec. 26-620(B)(14).
 - 634 vii. The Operator made false, misleading or fraudulent statement(s) in the
635 permit application, or misrepresented material facts in the permit
636 application, or used any scheme or subterfuge for the purpose of evading
637 any requirement of this Article.

638 **Sec. 26-629. – Penalties**

- 639 A) Any person who violates this Article or the Comprehensive Zoning Ordinance shall be
640 subject to a fine of not less than \$500.00 for each offense. Each day that such violation
641 exists shall constitute a separate and distinct offense. Multiple violations can occur during
642 a single Guest stay, and may be noticed and heard in a single administrative hearing.
- 643 B) In addition to any fine or penalty imposed by this Article, the City may seek all available
644 relief in a court of competent jurisdiction to enjoin any violation.
- 645 C) The City may seek any remedy to compel compliance with the requirements of this Article
646 or any correlating provision in the Comprehensive Zoning Ordinance, including the
647 discontinuance of electrical service and the filing of property liens.
- 648 D) The City may revoke or suspend any and all permits required by this Article, as provided
649 herein. If a permit issued pursuant to this Article is revoked, such revocation shall remain
650 in effect for a period of one year from the date of revocation. The duration of suspensions
651 shall be as dictated by the hearing officer's order."

1 **SECTION 2.** The effective date of this ordinance shall be September 1, 2019.

ADOPTED BY THE COUNCIL OF THE CITY OF NEW ORLEANS _____

PRESIDENT OF THE COUNCIL

DELIVERED TO THE MAYOR ON _____

APPROVED:

DISAPPROVED: _____

MAYOR

RETURNED BY THE MAYOR ON _____ **AT** _____

CLERK OF COUNCIL

ROLL CALL VOTE:

YEAS:

NAYS:

ABSENT:

RECUSED: